

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BARBARA SIERS-PICCOLO	:	
12629 Audubon Ave., 1 <sup>st</sup> Fl.	:	
Philadelphia, PA 19116	:	
Plaintiff,	:	CIVIL ACTION
v.	:	No.: _____
ASPLUNDH TREE EXPERT CO.	:	
405 Caredean Dr.	:	
Horsham, PA 19044	:	JURY TRIAL DEMANDED
Defendant.	:	

**CIVIL ACTION COMPLAINT**

Plaintiff, by and through her undersigned counsel, hereby avers as follows:

**I. INTRODUCTION**

1. This action has been initiated by Barbara Siers-Piccolo (*hereinafter* referred to as "Plaintiff," unless indicated otherwise) against Asplundh Tree Expert Co. (*hereinafter* referred to as "Defendant") for violations of Title VII of the Civil Rights Act of 1964 ("Title VII - 42 U.S.C. §§ 2000d *et. seq.*") and the Pennsylvania Human Relations Act ("PHRA"). As a direct consequence of Defendant's unlawful actions, Plaintiff seeks damages as set forth herein.

**II. JURISDICTION AND VENUE**

2. This Court, in accordance with 28 U.S.C. § 1331, has jurisdiction over Plaintiff's claims because this civil action arises under laws of the United States.

3. This Court may properly maintain personal jurisdiction over Defendant because Defendant's contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendant to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in International Shoe Co. v.

Washington, 326 U.S. 310 (1945) and its progeny. This Court has supplemental jurisdiction over Plaintiff's state-law claim(s) because such claim(s) arise out of the same common nucleus of operative facts as her federal claims asserted herein.

4. Pursuant to 28 U.S.C. § 1331(b)(1) and (b)(2), venue is properly laid in this district because all of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district, and in addition, Defendant is deemed to reside where it is subject to personal jurisdiction, rendering Defendant a resident of the Eastern District of Pennsylvania.

5. Plaintiff is proceeding herein under Title VII and has properly exhausted her administrative remedies with respect to such claims by timely filing a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") and by filing the instant lawsuit within ninety (90) days of receiving a notice of dismissal and/or right to sue letter from the EEOC. Plaintiff also exhausted her administrative remedies (with respect to her PHRA claims) because she timely filed Charges with the Pennsylvania Human Relations Commission (PHRC) and the charges have remained with the PHRC for over one year.

### III. PARTIES

6. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

7. Plaintiff is an adult individual, with an address as set forth in the caption.

8. Defendant is a private company headquartered in Willow Grove, PA which specializes in tree pruning and vegetation management for utilities and government agencies.

9. At all times relevant herein, Defendant acted by and through its agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

**IV. FACTUAL BACKGROUND**

10. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

11. Plaintiff is a female.

12. Plaintiff was employed with Defendant from in or about January of 2015 through in or about June of 2015.

13. Throughout her tenure with Defendant, Plaintiff was employed as a grounds person/driver with a CDL, a license which was required for the driver position that Plaintiff held with Defendant.

14. In or about June of 2015, Plaintiff filed a complaint of sexual harassment with Defendant's management after a co-worker of hers walked towards her gesturing with his penis and stating "while you are down there" implying that he wanted Plaintiff to give him oral sex.

15. This sexual advancement was unwelcomed by Plaintiff and she was very offended by such conduct.

16. Following her complaint of sexual harassment, which upon information and belief was never properly investigated or resolved appropriately, Plaintiff had to take an unexpected leave of absence to care for her ill parent.

17. As a result of having to take an unexpected leave of absence, Plaintiff was left with no choice but to separate from her employment with Defendant, as she did not qualify for any protected medical leave.

18. Plaintiff was informed by Defendant's management that when she was able to return to work, she could apply for open positions within Defendant.

19. Plaintiff was able to return to work from her medical leave in or about August of 2015.

20. From in or about August of 2015 through in or about December of 2015, Plaintiff applied for and inquired about numerous positions within Defendant, including but not limited driver positions, ground person positions, and bucket operator positions.

21. Despite being told by several members of Defendant's management, in advance of her separation from Defendant, that she would have a position with Defendant when she was ready to return to work, especially because she had a CDL, Plaintiff was rejected/not hired for any of the positions that she applied for with Defendant (during the aforesaid six month time-frame).

22. Plaintiff was not given any reason as to why she was not hired for any of the positions she applied for with Defendant and upon information and belief, Plaintiff was not selected for hiring in favor of male candidates who were less qualified than Plaintiff and even some individuals that did not have a CDL (like Plaintiff).

23. Plaintiff believes and therefore avers that she was not hired/re-hired by Defendant (after applying for numerous positions during a six-month period) due to her gender and/or in retaliation for complaining of sexual harassment in advance of her June, 2015 separation from Defendant.

**COUNT I**  
**Violations of Title VII of the Civil Rights Act of 1964 ("Title VII")**  
**(Gender Discrimination and Retaliation)**

24. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

25. Plaintiff believes and therefore avers that she was not hired/re-hired by Defendant (after applying for numerous positions) due to her gender and/or in retaliation for complaining of sexual harassment in advance of her June, 2015 separation from Defendant.

26. Defendants' actions as aforesaid constitute violations of Title VII.

**COUNT II**  
**Violations of the Pennsylvania Human Relations Act ("PHRA")**  
**(Gender Discrimination & Retaliation)**

27. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

28. Plaintiff believes and therefore avers that she was not hired/re-hired by Defendant (after applying for numerous positions) due to her gender and/or in retaliation for complaining of sexual harassment in advance of her June, 2015 separation from Defendant.

29. Plaintiff is aware that she was required under the PHRA to exhaust her administrative remedies with respect to her PHRA gender discrimination and retaliation claims within a period of 180 days from the date of the adverse action and therefore only seeks to bring claims under the PHRA for any position she was denied/not hired for within the 180-day period preceding the initiation of her complaint with the EEOC/PHRC.

**WHEREFORE**, Plaintiff prays that this Court enter an Order providing that:

A. Defendant is to promulgate and adhere to a policy prohibiting sexual harassment/retaliation in the future against any employee(s);

B. Defendant is to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendant's illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, insurance, and benefits.

C. Plaintiff is to be awarded actual damages, as well as damages for the pain, suffering, and humiliation caused by Defendant's actions;

D. Plaintiff is to be awarded punitive damages as permitted by applicable law in an amount believed by the Court or trier of fact to be appropriate to punish Defendant for its willful, deliberate, malicious, and outrageous conduct and to deter Defendant or other employers from engaging in such misconduct in the future;

E. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper, and appropriate;

F. Plaintiff is to be awarded the costs and expenses of this action and a reasonable attorney's fees as provided by applicable federal and state law; and

G. Plaintiff is to receive a trial by jury.

Respectfully submitted,

**KARPF, KARPF & CERUTTI, P.C.**

By:

  
Ari R. Karpf, Esq.  
3331 Street Road  
Two Greenwood Square  
Suite 128  
Bensalem, PA 19020  
(215) 639-0801

Dated: December 28, 2017

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

BARBARA SIERS-PICCOLO.

CIVIL ACTION

v.

ASPLUNDH TREE EXPERT CO.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

12/28/2017  
Date



Attorney-at-law

(215) 639-0801

(215) 639-4970

Telephone

FAX Number

Plaintiff

Attorney for

akarpf@karpf-law.com

E-Mail Address

## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 12629 Audubon Avenue, 1st Floor, Philadelphia, PA 19116

Address of Defendant: 405 Caredean Drive, Horsham, PA 19044

Place of Accident, Incident or Transaction: Defendant's place of business

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?  
 (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes  No

Does this case involve multidistrict litigation possibilities?

Yes  No

*RELATED CASE, IF ANY:*

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes  No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes  No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes  No
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes  No

CIVIL: (Place  in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1.  Indemnity Contract, Marine Contract, and All Other Contracts
2.  FELA
3.  Jones Act-Personal Injury
4.  Antitrust
5.  Patent
6.  Labor-Management Relations
7.  Civil Rights
8.  Habeas Corpus
9.  Securities Act(s) Cases
10.  Social Security Review Cases
11.  All other Federal Question Cases  
 (Please specify) \_\_\_\_\_

B. *Diversity Jurisdiction Cases:*

1.  Insurance Contract and Other Contracts
2.  Airplane Personal Injury
3.  Assault, Defamation
4.  Marine Personal Injury
5.  Motor Vehicle Personal Injury
6.  Other Personal Injury (Please specify)
7.  Products Liability
8.  Products Liability — Asbestos
9.  All other Diversity Cases

(Please specify) \_\_\_\_\_

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Ari R. Karpf,

counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: 12/28/2017

Attorney-at-Law

ARK2484

Attorney I.D.# 91538

NOTE: A trial de novo will be a trial by jury only if there has been compliance with P.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 12/28/2017

Attorney-at-Law

ARK2484

Attorney I.D.# 91538

CIV. 609 (5/2012)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

SIERS-PICCOLO, BARBARA

(b) County of Residence of First Listed Plaintiff Philadelphia  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Karpf, Karpf &amp; Cerutti, P.C.; 3331 Street Road, Two Greenwood Square, Suite 128, Bensalem, PA 19020; (215) 639-0801; akarpf@karpf-law.com

**DEFENDANTS**

ASPLUNDH TREE EXPERT CO.

County of Residence of First Listed Defendant Montgomery

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)2 U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in Item III)**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF	
Citizen of This State	1	1	Incorporated or Principal Place of Business In This State	4	4
Citizen of Another State	2	2	Incorporated and Principal Place of Business In Another State	5	5
Citizen or Subject of a Foreign Country	3	3	Foreign Nation	6	6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
0 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	0 422 Appeal 28 USC 158	0 375 False Claims Act
0 120 Marine	310 Airplane	0 365 Personal Injury - Product Liability	0 423 Withdrawal 28 USC 157	0 376 Qui Tam (31 USC 3729(a))
0 130 Miller Act	315 Airplane Product Liability	0 367 Health Care/ Pharmaceutical Personal Injury Product Liability		0 400 State Reapportionment
0 140 Negotiable Instrument	320 Assault, Libel & Slander	0 368 Asbestos Personal Injury Product Liability		0 410 Antitrust
0 150 Recovery of Overpayment & Enforcement of Judgment	330 Federal Employers' Liability			0 430 Banks and Banking
0 151 Medicare Act	340 Marine			0 450 Commerce
0 152 Recovery of Defaulted Student Loans (Excludes Veterans)	345 Marine Product Liability			0 460 Deportation
0 153 Recovery of Overpayment of Veteran's Benefits	350 Motor Vehicle	0 370 Other Fraud		0 470 Racketeer Influenced and Corrupt Organizations
0 160 Stockholders' Suits	355 Motor Vehicle Product Liability	0 371 Truth in Lending		0 480 Consumer Credit
0 190 Other Contract	360 Other Personal Injury	0 380 Other Personal Property Damage		0 490 Cable/Sat TV
0 195 Contract Product Liability	362 Personal Injury - Medical Malpractice	0 385 Property Damage Product Liability		0 850 Securities/Commodities/ Exchange
0 196 Franchise				0 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	IMMIGRATION	0 891 Agricultural Acts
0 210 Land Condemnation	0 440 Other Civil Rights	Habeas Corpus:	0 462 Naturalization Application	0 893 Environmental Matters
0 220 Foreclosure	0 441 Voting	0 463 Alien Detainee	0 465 Other Immigration Actions	0 895 Freedom of Information Act
0 230 Rent Lease & Ejectment	X 442 Employment	0 510 Motions to Vacate Sentence		
0 240 Torts to Land	0 443 Housing/ Accommodations	0 530 General		
0 245 Tort Product Liability	0 445 Amer. w/Disabilities - Employment	0 535 Death Penalty		
0 290 All Other Real Property	0 446 Amer. w/Disabilities - Other	Other:		
	0 448 Education	0 540 Mandamus & Other		
		0 550 Civil Rights		
		0 555 Prison Condition		
		0 560 Civil Detainee - Conditions of Confinement		

**V. ORIGIN** (Place an "X" in One Box Only)X 1 Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from Another District (specify)  6 Multidistrict Litigation - Transfer  8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title VII of the Civil Rights Act of 1964 "Title VII" (42 USC 2000)

**VI. CAUSE OF ACTION**Brief description of cause:  
Violations of Title VII and the PHRA.**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.**DEMANDS**CHECK YES only if demanded in complaint:  
**JURY DEMAND:**  Yes  No**VIII. RELATED CASE(S) IF ANY**

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

12/28/2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

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JUDGE

MAG. JUDGE

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